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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,758	07/15/2003	Christopher Vienneau	G&C 30566.335-US-01	7388
55895	7590	09/12/2007	EXAMINER	
GATES & COOPER LLP HOWARD HUGHES CENTER 6701 CENTER DRIVE WEST, SUITE 1050 LOS ANGELES, CA 90045			OSBERG, THUY THANH	
			ART UNIT	PAPER NUMBER
			2179	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/619,758

Applicant(s)

VIENNEAU ET AL.

Examiner

Thuy Osberg

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This communication is responsive to amendment filed 06/25/2007 to the original application filed 07/15/2003. **This action is made Non-Final.**
 - A. Claims 31-32 were amended.
 - B. Claims 1-32 are pending in the application.

Priority

The Applicant did not submit the Certified copy of prior foreign document in accordance with the requirements of 37 C.F.R. § 1.55, which be given the benefit of the foreign filing date(s) in accordance with the requirements of 35 U.S.C. § 119.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because of the reference characters "application data and frame data" have been used to designate both labels 403 and 412 in figure 4 and It appears that the applicant has three separate figures and does not properly show the relationship. The examiner suggests that the applicant modify figure 4, labels 403 and 412 to clearly depict a relationship between label 403 and data along with 412 and its data. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of

Art Unit: 2179

an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: *Image Processing using a Hierarchy of Data Processing Nodes.*

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Art Unit: 2179

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. **Claims 1-32** are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of

Application No.10/818,530, herein after "530" and claims 1-33 of **Application No.**

10/403,062, herein after "062". Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application is a narrower version of the limitations in ('530) and ('062).

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. **Claims 1-32 are rejected under 35 U.S.C. 102(a) as being anticipated by Trinh et al. (US Pub 2002/0051005), hereinafter "Trinh".**

As to independent claims 1, 14, 27 and 31 (e.g. apparatus, method, system, computer-readable medium, etc), Trinh teaches apparatus for processing image data (par [0009]) comprising processing means (Abstract, lines 1-3; fig. 1, label 103; par

Art Unit: 2179

[0027], lines 1-5), input means (fig. 1, labels 105, 106; par [0027], lines 9-15) and display means (fig. 1, label 104; par [0027], line 11), wherein said image data is defined by a plurality of data processing nodes arranged in a hierarchical structure and said processing means is configured to perform the steps of (Abstract):

generating a first image frame (fig. 5, label 503; par [0037]) comprising a plurality of components (fig. 7, label 711; par [0046], lines 1-3) by means of processing said plurality of data processing nodes (fig. 8, labels 805-808, 810; par [0049]-[0050];

outputting said first image frame to said display means (fig. 1, label 104; par [0027], line 11; fig. 8, label 827; par [0050], lines 21-22);

receiving, via said input means (fig. 1, labels 105, 106; par [0027], lines 9-15), first user input data indicating one of said plurality of components (fig. 7, label 711);

selecting a first data processing node considered to be appropriate to said indicated component (par [0056]);

generating a second image frame (fig. 5, label 507) comprising said plurality of components (fig. 7, label 711; par [0046], lines 1-3) and further comprising tools relevant to said first data processing node (par [0056], lines 6-8);

and outputting said second image frame to said display means (fig. 1, label 104; par [0027], line 11; fig. 8, label 827; par [0050], lines 21-22).

Trinh teaches computer-readable medium comprising a computer program storage device (fig. 2, label 212) storing instructions that when read and executed by a computer, results in the computer performing a method for processing image data (par [0031]).

As to dependent claims 2 and 15, Trinh further teaches the first data processing node is in a sub-structure of said hierarchical structure that defines said component (par

Art Unit: 2179

[0040], the process node in figure 6, label 608 is a sub-structure).

As to dependent claims 3 and 16, Trinh further teaches the sub-structure is a layer (fig. 6, label 613), wherein a layer is defined as a connected collection of nodes having at the top a node that has the same parent node as at least one other node (fig. 6, label 613; par [0041], that label 613 is a parent node).

As to dependent claims 4 and 17, Trinh further teaches processing means selects said first data processing node by performing the following steps (fig. 9, step 903; par [0053]): identifying one of the plurality of data processing nodes that defines said component (par [0046]); defining a plurality of layers within said hierarchical structure by identifying nodes with a plurality of children nodes (fig. 6; par [0041], that label 613 is a parent node); identifying the layer that includes said identified data processing node (fig. 6, label 613; par [0041], that label 613 is a parent node); and selecting the top node of said identified layer (par [0050]).

As to dependent claims 5, 18 and 32, Trinh further teaches the processing means selects said first data processing node by performing the following steps (fig. 9, step 903; par [0053]): identifying one of the plurality of data processing nodes that defines said component (par [0046]); defining a plurality of layers within said hierarchical structure by identifying nodes with a plurality of children nodes (fig. 6; par [0041], that label 613 is a parent node);

Art Unit: 2179

identifying the layer that includes said identified data processing node (fig. 6, label 613; par [0041], that label 613 is a parent node);

and selecting a bottom node of said identified layer (fig.7, label 711; par [0046], lines 1-3, the user can select frames; par [0049]; fig. 8, label 806).

As to dependent claims 6 and 19, Trinh further teaches the processing means selects said first data processing node by performing the following steps (fig. 9, step 903; par [0053]):

identifying one of the plurality of data processing nodes that defines said component (par [0046]); selecting the closest node above said identified node that has the same parent node as at least one other node (fig. 7, label 715; par [0046], lines 15-17).

As to dependent claims 7 and 20, Trinh further teaches in response to first further user input data said processing means performs the following steps (fig.7, label 711; par [0046], lines 1-3, the user can select frames which represent nodes): selecting a portion of said hierarchical structure that is considered appropriate to said selected component and contains said first data processing node (fig.7, label 711; par [0046], lines 1-3, the user can select frames which represent nodes; par [0056]); generating third image data comprising a depiction of said portion (fig. 5, label 508); and outputting said third image data to said display means (fig. 7, label 707; par [0045], lines 10-12).

As to dependent claims 8 and 21, Trinh further teaches the third image data (fig. 5, label 508) further includes a display of parameters relating to said first data processing node (fig. 8, labels 803, 807, 810; par [0049]; par [0032], lines 15-19).

Art Unit: 2179

As to dependent claims 9 and 22, Trinh further teaches the said portion of said hierarchical structure is a layer (fig. 6, label 613), wherein a layer is defined as a connected collection of nodes having at the top a node that has the same parent node as at least one other node (fig. 6, label 613; par [0041], that label 613 is a parent node).

As to dependent claims 10, 23 and 29, Trinh further teaches in response to second further user input data indicating navigation through said hierarchical structure said processing means performs the following steps (fig.7, label 711; par [0046], lines 1-3, the user can select frames which represent nodes):

selecting a second data processing node (fig.7, label 711; par [0046], lines 1-3, the user can select frames; par [0049]; fig. 8, label 806);

generating a fourth image frame (fig. 5, label 514, finished clip) comprising said plurality of components and tools relevant to said second data processing node (fig. 8, label 806; par [0037]);

and outputting said fourth image frame to said display means (fig. 5, label 514; par [0037]; fig. 7, label 707; par [0045], lines 10-12).

As to dependent claims 11 and 24, Trinh further teaches the second data processing node (fig. 8, label 808) is connected in said hierarchical structure to said first data processing node (fig. 8, label 812) if said further user input data indicates vertical navigation (fig.7, label 711; par [0046], lines 1-3, the user can select frames; par [0049]).

As to dependent claims 12 and 25, Trinh further teaches the second data processing node (fig. 8, label 806) has the same parent node (fig. 8, label 809) as said first data processing node (fig 8, label 805) if said further user input data indicates horizontal

Art Unit: 2179

navigation (fig.7, label 711; par [0046], lines 1-3, the user can select frames; par [0049]).

As to dependent claims 13 and 26, Trinh further teaches the second data processing node (fig. 8, label 806) is of a comparable data type to said first data processing node (fig 8, label 805) but defines a different one of said plurality of components from said indicated component if said further user input data indicates horizontal navigation (fig.7, label 711; par [0046], the user can select frames and has multiple components; par [0049]).

As to independent claim 30, The rejection is as the same as the rejection of independent claims 11, 12 and 13 above.

It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332- 33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

The Examiner notes MPEP § 2144.01, that quotes In re Preda, 401 F.2d 825,159 USPQ 342, 344 (CCPA 1968) as stating "in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." Further MPEP 2123, states that "a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill the art, including nonpreferred embodiments. Merck & Co. v. Biocraft Laboratories, 874 F.2d 804, 10 USPQ2d 1843 (Fed. Cir.), cert. denied, 493 U.S. 975 (1989).

Response to Arguments

8. Applicant's arguments filed 06/25/2007 have been fully considered. The references have been withdrawn. Therefore, the rejection of claims 1-32 is a new-ground rejection.

Conclusion

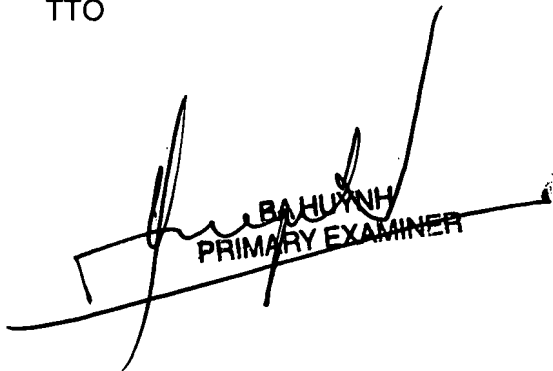
9. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. 1.111(c) to consider these references fully when responding to this action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy Osberg whose telephone number is 571-270-1258. The examiner can normally be reached on Monday-Friday (8:30AM-5:00PM). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Art Unit: 2179

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TTO


BA HUYNH
PRIMARY EXAMINER